UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,455	05/15/2001	William T. West	IGPP101USA	9243

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EXAMINER
BEKERMAN, MICHAEL

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	**Examiner** Michael Bekerman / **Art Unit** 3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>20 October 2005</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-23</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-23</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to papers filled on 10/20/2005.

Claim Rejections - 35 USC § 101

.2.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 22 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding claim 22 as best understood, this claim appears to be merely programming instructions (or possibly merely data), per se and is not statutory. If the preamble set forth such data/programming on a computer readable medium, then the claim would appear to be statutory. However such a claim would have the same scope as claim 21 and would be subject to a double patenting rejection as being a duplicate claim. Please reference MPEP 2106 (IV) (B) (1) (a) for the basis of this rejection.

Claim 23 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding claim 23 as best understood, this claim appears to be merely data, per se and is not statutory. MPEP 2106 (IV) (B) (1) (b) describes why acclaim to non-functional descriptive material is non-statutory. The claim merely sets forth two values. Please reference MPEP 2106 (IV) (B) (1) (b) for the basis of this rejection.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   **Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by**

Nanos (U.S. Patent No. 6,381,744). Nanos shows an automated survey kiosk that

includes all of the limitations recited in claims 1-23.

Referring to claims 1,21, and 22, Nanos teaches a system providing automatic

generation and retrieval of consumer information, comprising: an interactive component

to motivate consumers to provide information input (Column 8, Lines 38-41); and an

analytical component providing feedback to the interactive component based upon

profiles associated with the information input (Abstract, Line 14). Examiner considers

the system to rely on language-based profiles. Nanos shows the analytical component

as further comprising a logic engine for interpreting at least one rule set to determine

the feedback provided to the consumer, wherein the rule set is determined from

demographic characteristics of the consumer and surveys are directed to the consumer

based on that rule set (Abstract, Line 14). **Examiner considers the selection based**

on language to involve a demographic rule.

Referring to claims 2 and 13, Nanos shows the interactive and analytical

components to be configured as a mobile/standalone system to provide point-of-

presence interactions with consumers (Column 12, Lines 4-5).

Referring to claims 3 and 14, Nanos shows the interactive and analytical

components as being separated to provide remote interactions with consumers (Column

11, Lines 34-35 and 43-46)

Referring to claims 4-6 and 15-17, Nanos shows the interactive component as

providing entertainment and rewards to induce interactions with consumers. Nanos

teaches the entertainment as comprising audio (Column 9, Lines 11-13) and video

(Column 9, Lines 48-49). Nanos further teaches a reward of a coupon (Column 10,

Lines 40-41).

Referring to claims 7-9, 18, and 19, Nanos shows the analytical component as

further comprising a logic engine for interpreting at least one rule set to determine the

feedback provided to the consumer, wherein the rule set is determined from

demographic characteristics of the consumer and surveys are directed to the consumer

based on that rule set (Abstract, Line 14). **Examiner considers the selection based

on language to involve a demographic rule.**

Referring to claims 10 and 11, Nanos shows the analytical component as further

comprising a data store for storing responses from the consumer (Column 13, Lines 26-

27), and then further comprising a subsystem for retrieving responses from the

consumer (Column 11, Lines 28-30).

Referring to claims 12 and 20, Nanos teaches a system providing automatic

generation and retrieval of consumer information, comprising: motivating an information

provider at a point-of-presence associated with the information provider (Column 8,

Lines 38-41); utilizing automated feedback to tailor output to the information provider

(Abstract, Line 14); storing the information provider's response to the output in a

database (Column 13, Lines 26-27); and retrieving information associated with the

information provider (Column 11, Lines 28-30). Nanos shows the analytical component

as further comprising a logic engine for interpreting at least one rule set to determine

the feedback provided to the consumer, wherein the rule set is determined from

demographic characteristics of the consumer and surveys are directed to the consumer

based on that rule set (Abstract, Line 14). **Examiner considers the selection based

on language to involve a demographic rule.**

Referring to claim 23, Nanos teaches a computer readable medium having

stored a first data field containing data representing information provided by consumers

(Column 10, Lines 46-62) and a second data field containing data representing results

from an analysis system (Column 11, Lines 28-30). Nanos shows the analytical

component as further comprising a logic engine for interpreting at least one rule set to

determine the feedback provided to the consumer, wherein the rule set is determined

from demographic characteristics of the consumer and surveys are directed to the

consumer based on that rule set (Abstract, Line 14). **Examiner considers the

selection based on language to involve a demographic rule.**

Response to Arguments

5.   In response to the technological arts rejection under 35 U.S.C. 101 for claims 1-6

and 10-20, this rejection has been withdrawn.

6.   In response to the programming instructions (or merely data) per se and data per

se rejections under 35 U.S.C. 101 for claims 22 and 23, the claims essentially "fall out"

as functional and non-functional respectively before they are analyzed for useful,

concrete, and tangible results. MPEP 2106 (IV) (B) (1) (a) and MPEP 2106 (IV) (B) (1)

(b) show the basis of these rejections. Claim 22 is merely a data packet with

components that appear to be either programming instructions per se or data per se

and are not embodied on a computer readable medium. Claim 23 is just data contained

on a medium. The decision of Ex Parte Lundgren does not effect these rejections, and

thus, the rejections still stand.

7.   In response to the 102(e) rejection for claims 1-23, applicant argues that

language is not considered a demographic. Examiner still considers language to be a

demographic. Gill (U.S. Patent No. 4,736,294) discusses the obtaining of demographic

data such as address and **language** (Column 6, Lines 43-44). Veres (U.S. Pub. No.

2003/0229544) mentions demographics as referring to Spanish **language** and English

language (Paragraph 0035). Examiner also understands that Nanos adapts the survey

questions to the language demographic. After reviewing the amendments, examiner

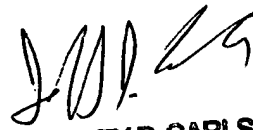feels that Nanos is still a relevant 102(e) teaching and the rejection still stands.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Bekerman whose telephone number is (571)

272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone

number for the organization where this application or proceeding is assigned is 703-

872-9306.

JEFFREY D. CARLSON
PRIMARY EXAMINER

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Patent Application Information Retrieval (PAIR) system. Status information for

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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JEFFREY D. CARLSON
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